

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE	:	
COMMISSION,	:	
	:	14-MC-30 (JPO)
Petitioner – Judgment Creditor,	:	
	:	<u>ORDER</u>
-v-	:	
	:	
WALTER V. GERASIMOWICZ, MEDITRON	:	
ASSET MANAGEMENT, LLC, and	:	
MEDITRON MANAGEMENT GROUP, LLC,	:	
	:	
Respondents – Judgment Debtors.	:	
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SECURITIES AND EXCHANGE	:	
COMMISSION,	:	
	:	
Petitioner – Judgment Creditor,	:	
	:	
-v-	:	
	:	
WALTER V. GERASIMOWICZ,	:	
	:	
Respondent – Judgment Debtor.	:	
	:	
-and-	:	
	:	
FIVE STATES CONSOLIDATED I, LTD,	:	
FIVE STATES CONSOLIDATED II, LTD, and	:	
FIVE STATES CONSOLIDATED III, LTD,	:	
	:	
Garnishees.	:	
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J. PAUL OETKEN, District Judge:

The Petitioner – Judgment Creditor Securities and Exchange Commission (the
“Commission”) having moved for a charging order pursuant to Rule 69(a) of the Federal Rules

of Civil Procedure, New York Civil Practice Law and Rules (“NY CPLR”) 5225 and 5227, and the Texas Business Organizations Code § 153.256 with respect to the interest of the Respondent - Judgment Debtor Walter V. Gerasimowicz (“Gerasimowicz”) in and to Five States Consolidated I, Ltd. (“Five States I”), Five States Consolidated II, Ltd. (“Five States II”), and Five States Consolidated III, Ltd. (“Five States III”), and the matter having come on to be heard.

The Court finds:

1. Service of the motion papers upon Gerasimowicz and upon the Five States Partnerships was duly made pursuant to the Order to Show Cause entered herein.
2. Gerasimowicz and the Five States Partnerships have defaulted with respect to this motion as they did not serve and file opposing papers by 5:00 p.m. on September 24, 2014, as required by the Order to Show Cause.
3. On January 29, 2014, the Commission filed an Application for an order pursuant to Section 20(c) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C. § 77t(c), and Section 21(e)(1) of the Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. § 78u(e)(1), enforcing compliance by the Respondents Gerasimowicz, Meditron Asset Management, LLC (“MAM”), and Meditron Management Group, LLC (“MMG”) (collectively the “Respondents”) with a final Commission order entered against them on September 17, 2013, ordering that the Respondents pay disgorgement, jointly and severally, of \$3,143,029.41, plus prejudgment interest, and pay third tier civil money penalties, jointly and severally, of \$1,950,000.
4. On March 25, 2014, the Hon. John G. Koeltl entered an Opinion and Order (Dkt. No. 14) granting the Commission’s Application. *SEC v. Gerasimowicz*, ___ F. Supp.2d ___, 2014 WL 1226486 (S.D.N.Y. Mar. 25, 2014).

5. On April 22, 2014, the Court entered an Order enforcing the Commission's order (Dkt. No. 20). The April 22 Order directed the Respondents, jointly and severally, to pay the following amounts:

Disgorgement as set in Finality Order	\$3,143,029.41
Prejudgment interest from October 1, 2011 to September 17, 2013	\$177,024.24
Prejudgment interest from September 17, 2013 to April 21, 2014, pursuant to 17 C.F.R. § 201.600	\$8,511.60
TOTAL DISGORGEMENT AND PREJUDGMENT INTEREST	\$3,328,565.25

6. The Respondents have not paid any portion of the disgorgement and prejudgment interest as directed by the April 22 Order.

7. Gerasimowicz has an interest in and to Five States I, Five States II, and Five States III and such interest has a substantial value, including both distributions that have been made and are being held and distributions to be made in the future.

8. The Commission is entitled to a charging order pursuant to Rule 69(a) of the Federal Rules of Civil Procedure, NY CPLR 5225(b) and 5227, and Texas Business Organizations Code Ann. § 153.256 (Vernon 2009).

WHEREFORE, IT IS HEREBY:

1. **ORDERED**, that a charging order issue as to Gerasimowicz's interest in and to Five States I, Five States II, and Five States III.

2. **FURTHER ORDERED**, that such charging order shall constitute a lien on Gerasimowicz's partnership interest in and to Five States I, Five States II, and Five States III.

3. **FURTHER ORDERED**, that within 30 days from the date of this Order Five States I, Five States II, and Five States III shall pay to the Commission all amounts that they are currently holding as distributions that have been made to Gerasimowicz. Such payment shall be

made by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169.

4. Such payments by check or money order must be accompanied by a cover letter identifying Gerasimowicz as a respondent in this proceeding, and the name of this Court and the docket number of this action; a copy of the cover letter and check or money order must be sent to John J. Graubard, Securities and Exchange Commission, New York Regional Office, 200 Vesey Street, Room 400, New York, NY 10281-1022.

5. **FURTHER ORDERED**, that within 30 days of any distribution being made by Five States I, Five States II, or Five States III to their limited partners Five States I, Five States II, and Five States III shall pay to the Commission all amounts that they are currently holding as distributions that have been made to Gerasimowicz. Such payment shall be made by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169.

6. Such payments by check or money order must be accompanied by a cover letter identifying Gerasimowicz as a respondent in this proceeding, and the name of this Court and the docket number of this action; a copy of the cover letter and check or money order must be sent to John J. Graubard, Securities and Exchange Commission, New York Regional Office, 200 Vesey Street, Room 400, New York, NY 10281-1022.

7. **FURTHER ORDERED**, that by making the payments described in paragraph 3 and in paragraph 4 above, Five States I, Five States II, and Five States III, and their partners, general and limited, officers, employees, agents, and attorneys, shall be discharged from any further liability to Gerasimowicz or any other person or entity claiming by, through, or under Gerasimowicz.

8. **FURTHER ORDERED**, that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Charging Order.

SO ORDERED.

Dated: October 1, 2014
New York, New York



J. PAUL OETKEN
United States District Judge